REMARKS

Claims 1-24 are pending in the application. Applicants thank the Examiner for accepting the drawings.

Objection to the Drawings:

The grounds of rejection indicate that reference character 52 is not included in Figure 8A as described in paragraph [0050] of the present specification. Applicants have amended the specification to correct the typographical error. Specifically, reference character "52" has been amended to reference character –54-- as properly shown in the drawings. No amendment to the drawings is thought necessary.

Objection to the Specification:

The grounds of rejection indicate that the Abstract is in an improper format, including legal phraseology. Applicants have amended the Abstract to correct its format.

Applicants have also amended claim 13 to replace the term "expands" with --evolves--. These changes are thought to resolve the objections to the specification.

Information Disclosure Statement:

Applicants thank the Examiner for indicating that the references cited in the present specification have not been considered. Applicants respectfully submit that the present invention distinguishes from the references cited in the specification, and will submit the references in a separate Information Disclosure Statement, if appropriate.

35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) Rejections

Claims 1-5, 10-13, and 15-24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Purdy (U.S. Patent No. 5,693,067). Claims 6-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Purdy.

The present invention, as recited in amended claim 1, in general, relates to a surgical system including a fastener operable to attach a surgical component to a vessel wall, and an occlusive device in cooperation with the fastener that occludes blood flow in the vessel during attachment of the surgical component. The device may be used, for example, in repairing an aortic aneurysm without the attendant risks of intra-abdominal surgical intervention, by selectively reducing blood loss from a vessel during attachment of the surgical component, such as a prosthetic graft, to the vessel wall.

The grounds of rejection allege that the fastener and occlusive device of the present invention are disclosed by Purdy, and in particular, anchoring element 12 as the "fastener" and element 14 as the "occlusive device". The grounds of rejection refer to these elements as shown in Figures 1 and 2 of Purdy. Applicants respectfully traverse this rejection.

Purdy relates to an occlusion device 10 (see Figures 1 and 2) that it claims increases the occupation of a vascular lumen. The device 10 comprises an anchoring element 12, a lead element 14 and at least one fiber 16 attaching the anchoring element 12 and the lead element 14. The elements and fibers produce a cumulative occlusive effect greater than the sum of the individual elements. When placed in the blood stream, the anchoring element 12 lodges against the vessel wall and the lead element 14 is carried to a position distal thereto to occlude the vessel (see Abstract).

Applicants respectfully submit that anchoring element 12 is not a "fastener" as in the present invention. In the present invention, the fastener as described in the specification and understood by one of ordinary skill in the

art attaches a surgical component to a vessel wall. The independent claims of the present application, as appropriate, have been amended to more clearly define this distinction. Anchoring element 12 of Purdy, however, is not used to attach a surgical component to a vessel wall. Rather, anchoring element 12 deploys and lodges against the wall of the vessel. The blood flow carries the lead element 14 distally up to the length of the fibers 16. Blood clots form around the anchoring element 12, the fibers 16 and the lead element 14 to occlude blood flow through the vessel. Thus, the anchoring element's 12 only purpose is to anchor the occlusive portion (lead element 14) of the occlusive device as disclosed in Purdy. There is no disclosure or suggestion that the anchoring element may be used to attach a surgical component to a vessel wall as in the present invention.

Further, Applicants respectfully request that the Examiner provide some basis in a reference for the assertion that the occlusive device may include a band, ribbon, valve, or flap. Applicants respectfully submit that the 35 U.S.C. 103(a) rejection appears to be based on improper hindsight in view of Applicants' own disclosure.

Accordingly, Applicants respectfully submit that the claims distinguish from Purdy.

35 U.S.C. § 102(e) Rejection

Claims 1 and 14 stand rejected under 35 U.S.C. 102(e) as being anticipated by Jones et al. (U.S. Patent No. 6,802,851). The grounds of rejection state that Figure 11 of Jones et al. disclose the features of claims 1 and 14, citing fastener 14/12 and coil 66 as the claimed occlusive device.

Jones, like the present invention, discloses a device for treating an aneurysm of a patient. In Jones et al., relating to Figure 11, a framework 12 for supporting one or more embolization elements 66 is introduced into the patient's aneurysm 38. A stent 14, connected to the framework 12 is introduced into a vessel leading into and communicating with the aneurysm 38, with the stent 14 being compressed against the inner wall of the vessel for anchoring the framework. Subsequent to the stent 14 being placed, one or more embolization elements 66 are introduced through the framework 12 into the aneurysm, and in this manner the framework 12 maintains the one or more embolization elements 66 within the aneurysm.

However, Applicants respectfully submit that stent 14 is not a fastener *per se*, and would not be understood by one of ordinary skill in the art as operable to attach a surgical component to a vessel wall. The purpose of stent 14 is to prevent migration of the framework 12 back into the parent vessel (see col. 4, lines 14-18). Further, embolization elements 66 would not occlude blood flow in the vessel during attachment of the surgical component, as recited in independent claim 1. For these reasons, claim 1 and dependent claim 14 distinguish from Jones et al.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims of the present invention define subject matter patentable over the references cited by the Office and that the application is in condition for allowance. Should the Office believe that anything further is desirable to place the application in better condition for allowance, the Office is invited to contact Applicants' undersigned attorney at the below listed telephone number.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to deposit account number 03-2469. Moreover, if the deposit account contains insufficient funds, the Commissioner is hereby invited to contact Applicant's undersigned representative to arrange payment.

Respectfully submitted,

Date: March 12, 2007

JOHN N. COULBY, Reg. No. 43,565
RONALD KIMBLE, Reg. No. 44,186
COLLIER SHANNON SCOTT, PLLC
3050 K Street, N.W., Suite 400
Washington, D.C. 20007
(202) 342-8400